

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

The above amendments are fully supported by the specification and therefore do not constitute new matter. More specifically, support can be found throughout the specification and original claims.

Applicants appreciate the acknowledgment by the Examiner of the claim for priority, as well as the withdrawal of various objections and rejections.

Applicants have not cancelled claim 8, even though it stands withdrawn, as the Examiner indicated in the office action dated March 10, 2003 that claim 8 (or group III of the original restriction requirement) would be rejoined with the elected group II once the group II claims were found allowable. Therefore, we decline to cancel claim 8 and have amended it to conform with the currently pending claims.

Applicants would like to draw the Examiner's attention to an Information Disclosure Statement that was filed on the same day that the final rejection was mailed, October 1, 2003. Applicants respectfully request consideration of this IDS and return of the initialed PTO-1449, as the required fee under 37 CFR 1.17(p) was submitted. This is evidenced by the date-stamped receipt. A copy of the IDS, with the cited references and the stamped postcard are submitted herewith for the Examiner's convenience.

The substantive claim rejections will now be addressed.

The rejection of claims 4, 6, and 7 under 35 USC 112, 2nd paragraph

The Examiner has rejected claims 4, 6, and 7 and 9-12 under 35 USC 112, 2nd paragraph for allegedly failing to particularly point out and distinctly claim the subject matter of the invention. Claims 6, and 9-12 have been cancelled. Although applicants do not necessarily agree with the Examiner's assertions regarding the remaining claims 4 and

6, applicants have amended the claims to state that the bacterium harbors the csc genes originating from *Escherichia coli* which comprise genes encoding for permease, invertase, and fructokinase. Therefore, applicants assert that the claim is clear as to the definition of the particular csc genes. Therefore, applicants respectfully request that the rejection be withdrawn.

The rejection of claims 4, 6, 7, and 9-12 under 35 USC 112, 1st paragraph

The Examiner has rejected claims 4, 6, 7, and 9-12 under 35 USC 112, 1st paragraph as allegedly containing subject matter which was not described in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventors at the time the application was filed had possession of the invention. The Examiner has also rejected the claims under this section for non-enablement.

Although applicants disagree with the Examiner's assertions, claims 6, and 8-12 have been cancelled, and the remaining claims 4 and 7 have been amended to state that the bacterium harbors the csc genes originating from *Escherichia coli* which comprise genes encoding for permease, invertase, and fructokinase, all also originating from *Escherichia coli*. Clearly this amendment renders the scope of the claims such that there is no doubt that the specification provides adequate support. One of ordinary skill in the art would be enabled to determine the genes which fall within the scope of the claims based on the specification and methods known to those skilled in the art. For these reasons, applicants respectfully request that the rejection be withdrawn.

The rejection of claims 4, 6, 7, and 9-12 under 35 USC 102

The Examiner has rejected claims 4, 6, 7, and 9-12 under 35 USC 102 over Bockmann et al. for the allegedly inherent teaching of accumulation of amino acids and presence of a permease, invertase, and fructokinase. Applicants have amended the claims to recite that the invertase, permease, and fructokinase are csc genes originating from *E.*

coli, and that the amino acids are produced in an amount higher than is produced from a bacterium not harboring the csc genes. Therefore, remaining claim 4 and 7 are free of the teachings of Bockmann et al.. Applicants respectfully request that the rejection be withdrawn.


Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Kerr believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, she is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the undersigned respectfully requests that such fees be charged to the credit card listed on the attached PTO-2038.

Respectfully submitted,

By: 
Shelly Guest Cermak
Registration No. 39,571

USPTO Customer No. 38108
Ajinomoto Corporate Services LLC
1120 Connecticut Ave.
Ste. 1010
Washington D.C. 20036
202 457 0284
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